

Regular Meeting.....July 16, 2003
Location6900 Atmore Drive
Richmond, Virginia
Presiding.....Sterling C. Proffitt, Acting Chairman
PresentJames H. Burrell
Donald L. Cahill
Clay B. Hester
Gregory M. Kallen
Reneé Trent Maxey
R. W. Mitchell
W. Randy Wright

The Acting Board Chairman called the meeting to order. It was noted that a quorum was present. The roll was called. Eight members were present. There is one vacancy on the Board.

I. Board Vice Chairman (Mr. Proffitt)

Mr. Howerton was present to receive the Resolution, which was read into the record in its entirety:

On Motion of the State Board of Corrections, Commonwealth of Virginia,
the following Resolution was adopted:

WHEREAS, Mr. Howerton has served the Commonwealth faithfully since 1971, when he began his employment as a counselor with the Division of Youth Services; and

WHEREAS, Mr. Howerton, after working as a training specialist, planner, regional manager and regional administrator, assumed the position of Chief of Operations of the Local Facilities Unit in 1991; and

WHEREAS, during 25 of his 32 years as an employee in good standing, Mr. Howerton has worked with Sheriffs and local and regional jails and served as liaison

to both the Board of Corrections and Board's Liaison Committee. During these years, Mike was instrumental in: **developing, reviewing, and revising** the Board's Standards for Jails and Lockups, to include the implementation of annual unannounced inspections as set out in the Code; **developing and implementing** the Department's audit and inspection procedures; **developing** the Board's inmate medical co-pay program; **developing and implementing** the statewide objective jail classification training and jail contract bed programs; **reviewing** all requests for new jail construction for presentation to the Board; coordinating statewide regionalization plans for localities; and

WHEREAS, during his 32 years as an employee of the Virginia Department of Corrections, Mr. Howerton foresaw trends and managed change in his Unit; and

WHEREAS, Mr. Howerton understood the importance of his professional responsibility beyond the Department, and in so doing became an active proponent of issues important to the Commonwealth in the areas of jail planning, regional jails, and prisoner classification; and

WHEREAS, *Mr. Howerton retires from active state service effective August 1, 2003.*

NOW, THEREFORE BE IT RESOLVED, that the State Board of Corrections, this 16th day of July, 2003, publicly recognizes the contributions of Mr. J. Michael Howerton to the State Board of Corrections, the Virginia Department of Corrections, and the citizens of the Commonwealth of Virginia;

AND, BE IT FURTHER RESOLVED, that the Board extends its appreciation of his commitment to the Commonwealth and congratulations and best wishes for a long and rewarding retirement;

AND, BE IT FINALLY RESOLVED, that a copy of this resolution be presented to Mr. J. Michael Howerton and that this resolution be permanently recorded among the papers of the State Board of Corrections, Commonwealth of Virginia. And, the Resolution has each Board member's name printed on it.

After the reading, Mr. Proffitt, Mr. Hester, and Ms. Maxey each thanked Mr. Howerton for his work over the years and wished him the best in his new endeavors. Mr. Howerton thanked the Board, had his photograph taken with the Acting Chairman, and then left the meeting.

2) Motion to Approve May Board Minutes

There being no comments or changes, the Acting Chairman called for a motion from the floor to approve the May Board minutes as presented. By *MOTION* duly made by Mr. Burrell, seconded by Mr. Wright and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Wright), the May Board minutes were approved. There is one vacancy. As a tie-breaking vote was not necessary, the Acting Chairman's vote was not noted.

3) Appointment of Nominating Committee

With the previous Board Chairman's resignation, it becomes necessary to elect a new Chairman. Being that the Board's By-Laws state that Board officer elections are to take place in August of each year anyway, Mr. Proffitt instituted the election process early and asked Ms. Maxey to chair a nominating committee for the selection of Board Officers, with Mr. Kallen and Mr. Wright acting as committee members. All three accepted the assignment and will be prepared to report their recommendations at the September meeting.

II. Public/Other Comment (Mr. Proffitt)

The Acting Chairman noted there were neither members of the general public appearing to speak to the Board nor comments offered by Board members at this time.

III. Liaison Committee (Mr. Proffitt)

Mr. Proffitt noted the Committee had met on July 15. Jail construction projects were summarized, and the prisoner population report was reviewed in some detail. Mr. Proffitt noted that committee member Webb (Blue Ridge Regional Jail Administrator) voiced his concern regarding medical expenses on out-of-compliance inmates. He noted one instance at one of his facilities where medical costs for an out-of-compliance inmate would probably be around \$100,000. During committee discussion, Mr. Webb noted that the Department has been advised of the situation and has been very responsive to his concerns.

Mr. Proffitt mentioned several other items for the Board's benefit. One item in particular was the Committee's Resolution on behalf of the Local Facilities Unit. It was noted that this Committee has always worked very closely with the Unit, and the Unit has always provided assistance and accommodated the needs of the Committee. It was also remarked that communication between the Department and the local jails has been facilitated by the Unit, and it is the Committee's sincere hope that the Unit will remain viable.

Mr. Proffitt then went on to note new legislation that took effect on July 1; that being §53.1-131.3, whereby any sheriff or jail superintendent can charge inmates up to \$1.00 a day for their keep. It was brought to the Committee's attention that three jails in the Tidewater area have already implemented procedures to address this new language, and it was remarked that the onus is on the Board to create a Model Plan and adopt regulations to support this new law. A working group will be meeting to start the process and address questions and concerns that have already arisen as a result of discussion, and a report will be given at the September meeting. Ms. Maxey will more fully elaborate on this item during her Correctional Services/Policy & Regulations Committee report.

There being no further comments or questions from the Board, the Acting Chairman called for formal acceptance of the report as presented. By *MOTION* duly made by Mr. Wright, seconded by Mr. Mitchell and unanimously *APPROVED* by a verbal response in

the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Wright), the report was accepted as presented. Mr. Proffitt did not vote on his report and there is one vacancy.

IV. Administration Committee (Mr. Cahill)

There were no agenda items this month, but Mr. Cahill reported that there will be at least one item for review and presentation in September.

**V. Correctional Services Committee Report/Policy & Regulations (Ms. Maxey)
State Facility/Community Corrections/Local Jail Certifications**

Ms. Maxey moved that the following facilities be granted Unconditional Certification due to 100% compliance:

Central Virginia Regional Jail; Carroll County Lockup to include the housing of male and female juveniles in compliance with Section 16.1-249 of the Code of Virginia; and **Prince William County Lockup (Garfield District)**; and,

that the following facilities be granted Unconditional Certification:

New River Valley Regional Jail; Shenandoah County Jail; Probation & Parole District #24 (Farmville); and Probation & Parole District #35 (Manassas).

By *MOTION* duly made by Ms. Maxey, seconded by Mr. Hester and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Wright), the report on the above facilities was accepted as presented. There is one vacancy, and as a tie-breaking vote was not necessary, a vote by the Acting Board Chairman was not noted.

Jail Inspections

Jails achieving 100% compliance on their unannounced inspections were noted for the record. This was provided for informational purposes only. No Board action is required. The facilities are:

Prince William-Manassas Adult Detention Center; Southside Regional Jail; Virginia Beach Lockup; and Greene County Lockup.

Appeal by Blue Ridge Regional Jail (Campbell County Adult Detention Center)

As a result of their unannounced inspection, the Blue Ridge Regional Jail (Campbell County ADC) appealed its finding of noncompliance with Standard 6VAC15-40-1100, Fire Safety Inspection. The appeal was reviewed and discussed in Committee. After discussion, it was recommended that the finding of non-compliance should be reversed. The facility is now in 100% compliance with all LHS Standards and remains Unconditionally Certified.

By *MOTION* duly made by Ms. Maxey, seconded by Mr. Hester and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Wright), the cited non-compliant finding for 6VAC15-40-1100 for the Blue Ridge Regional Jail (Campbell County ADC) is reversed, and *THE APPEAL IS GRANTED*. There is one vacancy, and as a tie-breaking vote was not necessary, a vote by the Acting Board Chairman was not noted.

Appeals by Arlington County Jail, Roanoke City Jail, and Rockingham Harrisonburg Regional Jail

At the May Board meeting, it was noted that three facilities had appealed findings of non-compliance as a result of recent unannounced inspections. The appeals were reviewed in Committee at that time and it was determined that a recommendation be held over until July. The facilities in question are: **Roanoke City Jail, Arlington County Jail, and the Rockingham Harrisonburg Regional Jail.**

The Committee has completed its review and recommended that the appeals be denied. Roanoke City and Rockingham Harrisonburg Regional Jail will submit their corrective plans of action to address the cited deficiencies. Arlington County Jail has already submitted their plan of action and corrective action is complete. All three facilities remain Unconditionally Certified.

By *MOTION* duly made by Ms. Maxey, seconded by Mr. Cahill and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Wright), the *APPEALS* of findings of non-compliance for the above facilities *ARE DENIED*. There is one vacancy, and as a tie-breaking vote was not necessary, a vote by the Acting Board Chairman was not noted.

Motion to Suspend 2003 Annual Unannounced Inspections

Section 53.1-68 of the Code of Virginia authorizes the Board to grant suspensions of annual Life, Health and Safety Inspections if full compliance with Standards has been attained in the triennial Certification Audit of the jail. To date, five (5) jails and lockups have achieved 100% compliance with Board Standards. As noted by the following motion, the Board approves suspension of the annual unannounced inspections by way of the following:

By *MOTION* duly read by Ms. Maxey, seconded by Mr. Hester and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Wright), the Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2003 annual inspections for the jails and lockups noted below:

Central Virginia Regional Jail; Carroll County Lockup; Essex County Lockup; Prince William County Lockup (Garfield District); and Virginia Beach Lockup #4.

There is one vacancy, and as a tie-breaking vote was not necessary, a vote by the Acting Board Chairman was not noted.

For the record, Mr. Wright noted that his home jail, Norfolk City, had recently undergone its unannounced annual inspection and has achieved 100% compliance.

Policy & Regulations (Ms. Maxey)

1) Official Signing of Revised Board of Corrections Policies

These were approved at the May Board meeting and are signed and become effective today, July 16, 2003. No Board action is required.

2) Code of Virginia 53.1-131.3; Payment of Costs Associated with Prisoner Keep

Ms. Maxey noted that this new legislation requires that the Board formulate a Model Plan and adopt regulations for implementation of such program. The Department's Regulatory Coordinator made the suggestion that the Board can implement an emergency regulation in order to expedite this process, which ordinarily could take approximately 12 months. By implementing the emergency regulation, that process will be substantially reduced.

A working group has been established to address the new language. It will be comprised of two members from the Correctional Services Committee, Mr. Proffitt and Mr. Hester; one member from the Department, Mr. Hagenlocker; and two members from the Liaison Committee, who have not been identified at this time. It is anticipated that this working group will have a proposed Model Plan for review and discussion at the September Board meeting. Ms. Maxey also stressed that time is of the essence in that three facilities have already implemented their own procedures as a result of this legislation; being, Portsmouth, Norfolk, and Virginia Beach.

VI. Other Business (Mr. Johnson)

1) Executive Summary and Community Corrections Annual Report

Both of these items were provided for informational purposes only, and no Board action is required. The Director had nothing to report.

VII. Electronic Transfer of Travel Reimbursements

Each Board Member was provided a packet of information for their review prior to the meeting. Members were asked to give their applications to Mrs. Woodhouse.

VIII. Closed Session

Mr. Johnson, Mr. Jabe, Mr. Leininger, Ms. Scott, Ms. Smith, Mr. Katz, Mr. Hagenlocker, Mrs. Fahey, Ms. Dow, Mr. Broughton, and Mrs. Woodhouse remained.

By *MOTION* duly made by Mr. Cahill, seconded by Mr. Mitchell and unanimously *APPROVED* by verbally responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Proffitt, Wright), the Board convened in Closed Session pursuant to Section 2.2-3711 (a)(19), for those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life of safety. There is one vacancy.

The Closed Session discussion was held.

The record was reopened and the Board returned to Open Session. An individual roll call vote was taken by Mrs. Woodhouse whereby Board members were requested to vote that to the best of their knowledge, only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting, and only such business matters as were identified in the motion convening the Closed Meeting were heard, discussed, or considered. Each Board member responded in the affirmative. There is one vacancy.

By *MOTION* duly made by Mr. Hester, seconded by Mr. Mitchell and *APPROVED* by responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Proffitt), the recommended sentence reduction in **Case #1** was approved as presented. Mr. Wright noted his opposition to the recommendation. There is one vacancy.

By *MOTION* duly made by Mr. Mitchell, seconded by Mr. Hester and unanimously *APPROVED* by responding in the affirmative (Burrell, Cahill, Hester, Kallen, Maxey, Mitchell, Proffitt, Wright), the recommended sentence reduction in **Case #2** was approved as presented. There is one vacancy.

IX. Future Meeting Plans

Liaison Committee – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, September 16, 2003.

Correctional Services/Policy & Regulations Committee – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, September 16, 2003.

Administration Committee – 9:30 a.m., Room 3065, 6900 Atmore Drive, Richmond, Virginia, September 17, 2003.

Board Meeting – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia, September 17, 2003.

At this time, Mrs. Fahey of the Virginia Parole Board was recognized and welcomed. Mr. Proffitt provided ordering information with reference to pocket ID badges for the Board. An inquiry was made as to when the next execution was scheduled. Mr. Jabe responded with the date of July 22, 2003.

X. Adjournment

There being nothing further, By *MOTION* duly made by Mr. Mitchell, seconded by Mr. Wright, the meeting was adjourned.

(Signature copy on file)

STERLING C. PROFFITT, ACTING CHAIRMAN

CLAY B. HESTER, SECRETARY